

**REMARKS**

Claims 1-3, 5-8 and 10-14 had been pending, claims 4 and 9 having been previously cancelled. In this paper, claims 1 and 6 have been amended, without disclaimer, to recite “[a] method of purifying contaminated soil ...without aerating by introducing injected air.” Support for this amendment may be found at least in the Specification at pages 14-15, bridging paragraph; at page 15, lines 16-17; and at page 16, second paragraph. Dependent claims 3 and 8, which had recited a step of aeration, have been cancelled in light of this amendment, also without disclaimer.

Applicants have also amended claims 12 and 14, and have added new claims 15-18 to reflect proper antecedent basis for the recitation of the source of contamination. Support for these amendments may be found at least in the Specification, page 1, second paragraph.

Thus, with these amendments, claims 1-2, 5-7, and 10-18 are pending for examination in this application.

**Rejection of Claims 12 and 14 under 35 U.S.C. § 112, second paragraph**

The Examiner rejects claims 12 and 14 under 35 U.S.C. § 112, second paragraph, for the lack of antecedent basis in the inclusion of petroleum hydrocarbons within the genus of “chlorinated organic compounds.” To reflect proper antecedent basis, Applicants have amended claims 12 and 14 to recite that a chlorinated organic compound is trichloroethylene and have added new claims 15-18 to recite petroleum hydrocarbons. As noted above, support for these amendments may be found at least in the Specification, page 1, second paragraph. Applicants respectfully request the Examiner to withdraw the indefiniteness rejection under 35 U.S.C. § 112, second paragraph.

**Rejection of Claims 1-3, 5-8, and 10 under 35 U.S.C. § 103**

The Examiner continues to reject the pending claims under Glaze, et al. (U.S. Patent No. 5,593,888) (“Glaze”) in view of Gardening Series Basics Choosing a Soil Amendment (“Gardening Series”).

Applicants continue to believe that the Glaze method, in contrast to the present invention, affirmatively does require aeration by injected air. Specifically, the Glaze method depends on the introduction of generated air by either an entraining air stream and/or microenfractionation to create an aerobic environment. Indeed, according to Glaze, the microenfractionation process, which “literally homogenizes and aerates” the soil, is “one of the most critical aspects of the biological treatment of petroleum hydrocarbon contaminated soils.” *Id.* at Col. 14, lines 17-19.

This affirmative and clear requirement for aeration by forced air cannot suggest a system where aeration is entirely optional. As previously noted, the step of aeration by injected air was always optional in the present invention and is not necessary to practice the invention. On page 9, paragraph 2, the Specification expressly states that “it can be optionally chosen to perform or not to perform aeration.” *See also* Specification at pages 14-15, bridging paragraph; page 15, lines 16-17; and page 16, second paragraph. Indeed, the claimed use of a gas phase rate increasing inorganic soil-improving material, which is water-absorbing but has both non-swelling and non-viscosity properties after absorbing water, creates an aerobic environment without the need to resort to the forced air and expensive machinery of Glaze.

Nonetheless, solely to facilitate prosecution and without acquiescing to the rejection or any disclaimer of the subject matter, Applicants have amended claims 1 and 6, to now recite “[a] method of purifying contaminated soil containing clay or silt by microorganisms ... without aeration by introducing injected air into the soil....” Applicants have also cancelled claims 3 and

8. These amendments make clear that the claimed invention does not require aeration by introducing injected air into the soil.

Accordingly, Applicants respectfully request the Examiner withdraw the rejection under 35 U.S.C. § 103 and to allow the pending claims.

**CONCLUSION**

In view of the foregoing remarks, Applicants respectfully request reconsideration of the application and the timely allowance of the pending claims 1-2, 5-7, and 10-18. If the Examiner does not find the claims allowable, the undersigned requests that, prior to taking action, the Examiner call her at (650) 849-6607 to set up an interview.

Please grant any further extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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